

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ANDRE LEFFEBRE	§	
VS.	§	CIVIL ACTION NO. 1:13-CV-352
DANNY W. HODGES, FEDERAL BUREAU OF INVESTIGATION	§	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner, Andre Leffebvre, proceeding *pro se*, filed this petition for writ of mandamus against respondent Danny W. Hodges with the Federal Bureau of Investigation, Beaumont Division.

The court referred this matter to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends petitioner's application to proceed *in forma pauperis* should be denied and the petition dismissed pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Petitioner filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, however, the court finds the objections lacking in merit. The Fifth Circuit has imposed a 1915(g) bar against petitioner. *See Leffebvre v. Federal Corporation, et al.*, No. 07-41184 (5th Cir. 2008). Petitioner is, therefore, barred from proceeding *in forma pauperis* while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g). Petitioner has failed to demonstrate he was under imminent danger of serious physical injury at the time he initiated this cause of action as required to meet the imminent danger exception to application of 28 U.S.C. § 1915(g). *See Banos*

v. *O'Guin*, 144 F.3d 883, 885 (5th Cir. 1998).

ORDER

Accordingly, the objections of petitioner are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So **ORDERED** and **SIGNED** this **22** day of **November, 2013**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge